

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DEVON SMITH,	:	CIVIL NO. 1:07-CV-1802
Plaintiff,	:	
	:	(Chief Judge Kane)
v.	:	
	:	
C/O 1 GENSAMER, et al.,	:	
Defendants	:	

ORDER

AND NOW, this 2nd day of June, 2008, upon consideration of Defendants' motion to dismiss Plaintiff's complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) (Doc. No. 30), and Plaintiff having failed to oppose the motion in accordance with Local Rules of Court, see M.D. Pa. L.R. 7.6; and upon further consideration of this Court's order of May 13, 2008 (Doc. No. 33), affording Plaintiff until May 27, 2008, to oppose the motion, and Plaintiff having been cautioned that his failure to oppose the motion as directed would result in the motion being deemed unopposed, see M.D. Pa. L.R. 7.6, see also Stackhouse v. Mazurkiewicz, 951 F.2d 29 (3d Cir. 1991), and granted without a merits analysis under the authority of Stackhouse; and Plaintiff having failed to file a brief in opposition to Defendants' motion,¹ **IT IS HEREBY ORDERED THAT:**

1. Defendants' motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) (Doc. No. 30) is **DEEMED** unopposed. See M.D. Pa. L.R. 7.6.
2. The motion is **GRANTED** without a merits analysis under the authority of Stackhouse v. Mazurkiewicz, 951 F.2d 29 (3d Cir. 1991), and this civil action is **DISMISSED** in its entirety.

¹ More than two months have passed since Defendants filed their motion and supporting brief. Local Rule 7.6 provides that "[a]ny party opposing any motion shall file a responsive brief, together with any opposing affidavits, deposition transcripts or other documents, within fifteen (15) days after service of the movant's brief." M.D. Pa.L.R. 7.6. On May 13, 2008, Plaintiff was afforded until May 27, 2008, to oppose the motion. (Doc. No. 33). He failed to do so.

3. The Clerk of Court is directed to **CLOSE** this case.
4. Any appeal from this order is **DEEMED** frivolous and not in good faith. See 28 U.S.C. § 1915(a)(3).

____s/ Yvette Kane_____
Yvette Kane, Chief Judge
United States District Court
Middle District of Pennsylvania